

AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 1351

Introduced by Senator Hill

February 21, 2014

An act to add *and repeal* Title 1.3E (commencing with Section 1748.70) ~~to~~ of Part 4 of Division 3 of the Civil Code, relating to ~~credit and debit payment~~ cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1351, as amended, Hill. ~~Credit and debit~~ *Payment* cards.

Existing law generally provides for the regulation of credit and debit cards, including, but not limited to, limitations on the methods for offering and denying a credit card, requirements for listing the name appearing on a credit card, and restrictions on a person's liability for an unauthorized used of his or her credit or debit card.

This bill would require, ~~starting October 1, 2015, a bank, credit union, or financial institution to issue a credit or debit card with microchip technology, as specified. The bill would also require, starting on the same date, a retailer to utilize a credit or debit card scanner that accepts a credit or debit card with either a magnetic stripe or microchip technology or any other similar technology, as specified.~~ *retailers, starting October 1, 2015, except as specified, that accept a payment card, as defined, to provide a means of processing card-present payment card transactions involving payment cards equipped with embedded microchips capable of storing a personal identification number or any other technology that is generally accepted within the payments industry as being more secure than microchip technology for card-present fraud prevention. The bill would also require specified contracts entered into between a financial institution and a payment card network, as those*

terms are defined, to include a provision requiring that a new or replacement payment card issued to a cardholder with a California mailing address have an embedded microchip capable of storing a personal identification number or any other technology that is generally accepted within the payments industry as being more secure than microchip technology for card-present fraud prevention. The bill would make legislative findings and declarations in this—regard— regard and would repeal these requirements on or before January 1, 2020, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Over 80 countries utilize microchip technology for credit
- 4 cards, including, but not limited to, Canada, Mexico, Brazil, and
- 5 countries throughout Europe and Asia.
- 6 (b) The United States is one of the few remaining countries that
- 7 relies almost exclusively on magnetic stripe technology for credit
- 8 and debit cards.
- 9 (c) Credit and debit cards with microchip technology are
- 10 preferred to magnetic stripe cards because identifying information
- 11 is encrypted on an embedded microchip, which is more difficult
- 12 to counterfeit than a magnetic stripe.
- 13 (d) Adoption of microchip technology in Britain has helped
- 14 reduce fraud from counterfeit cards by 70 percent from 2007 to
- 15 2012, inclusive, according to the UK Card Association.
- 16 (e) By contrast, breaches have more than doubled since 2007
- 17 at retailers in the United States, affecting more than 5,000 records,
- 18 according to a survey by the Ponemon Institute, a research firm
- 19 located in Michigan.
- 20 (f) In 2012, United States merchants and banks suffered losses
- 21 of \$11.3 billion due to credit card fraud, or five cents (\$0.05) on
- 22 every one hundred dollars (\$100) spent, according to the Nilson
- 23 Report, a payment-industry newsletter based in California.
- 24 (g) If credit and debit cards with microchip technology were
- 25 used in the United States, fraud losses could be reduced by 50

1 percent, according to estimates by Aite Group, an independent
2 research and advisory firm focused on business, technology, and
3 regulatory issues and their impact on the financial services industry.

4 (h) It has been widely reported that retailers, banks, financial
5 institutions, and credit unions are planning on voluntarily adopting
6 microchip technology beginning in October 2015.

7 SEC. 2. Title 1.3E (commencing with Section 1748.70) is
8 added to Part 4 of Division 3 of the Civil Code, to read:

9
10 TITLE 1.3E. MICROCHIP CREDIT AND DEBIT PAYMENT
11 CARDS
12

13 ~~1748.70. A bank, credit union, or financial institution shall~~
14 ~~issue a credit or debit card with microchip technology, as follows:~~

15 ~~(a) To a new cardholder whenever issuing any credit or debit~~
16 ~~card.~~

17 ~~(b) To an existing cardholder only when issuing a new or~~
18 ~~replacement credit or debit card in the ordinary course of business.~~

19 *1748.70. (a) Except as specified in subdivision (b), on and*
20 *after January 1, 2015, any contract entered into between a*
21 *financial institution and a payment card network to govern the*
22 *circumstances under which the logo of the payment card network*
23 *is displayed on a payment card issued by that financial institution*
24 *shall include a provision requiring that any new or replacement*
25 *payment card issued on or after October 1, 2015, to a cardholder*
26 *with a California mailing address by that financial institution with*
27 *that payment card logo, have an embedded microchip capable of*
28 *storing a personal identification number or any other technology*
29 *that is generally accepted within the payments industry as being*
30 *more secure than microchip technology for card-present fraud*
31 *prevention.*

32 *(b) On and after January 1, 2017, any contract entered into*
33 *between a small financial institution and a payment card network*
34 *to govern the circumstances under which the logo of the payment*
35 *card network is displayed on a payment card issued by that*
36 *financial institution shall include a provision requiring that any*
37 *new or replacement payment card issued on or after October 1,*
38 *2017, to a cardholder with a California mailing address by that*
39 *financial institution with that payment card logo, have an*
40 *embedded microchip capable of storing a personal identification*

1 *number or any other technology that is generally accepted within*
2 *the payments industry as being more secure than microchip*
3 *technology for card-present fraud prevention.*

4 ~~1748.75. A(a) On and after October 1, 2015, a retailer shall~~
5 ~~utilize a credit or debit card scanner that accepts a credit or debit~~
6 ~~card with either a magnetic stripe or microchip technology or any~~
7 ~~other technology that is generally accepted within the payments~~
8 ~~industry as being equally or more secure than microchip technology~~
9 ~~for card-present fraud prevention. that accepts a payment card~~
10 ~~shall provide a means of processing card-present payment card~~
11 ~~transactions involving payment cards equipped with an embedded~~
12 ~~microchip capable of storing a personal identification number or~~
13 ~~any other technology that is generally accepted within the payments~~
14 ~~industry as being more secure than microchip technology for~~
15 ~~card-present fraud prevention.~~

16 *(b) The requirements of subdivision (a) shall apply to small*
17 *retailers and gas station pump payment terminals on and after*
18 *October 1, 2017.*

19 *1748.80. For purposes of this title, the following terms shall*
20 *have the following meanings:*

21 *(a) "Payment card" means a credit or debit card.*

22 *(b) "Payment card network" means an entity that facilitates*
23 *the payment process between credit or debit card users, retailers,*
24 *and credit or debit card issuers.*

25 *(c) "Retailer" means a person or entity that furnishes money,*
26 *goods, services, or anything else of value upon the presentation*
27 *of a payment card by a cardholder. "Retailer" shall not mean the*
28 *state, a county, city, city and county, or any other political*
29 *subdivision of the state.*

30 *(d) "Small financial institution" means a financial institution*
31 *with assets of \$5 billion or less.*

32 *(e) "Small retailer" means a retailer with 10 or less employees.*

33 *1748.85. It is the intent of the Legislature that this chapter*
34 *provide consumer protection consistent with federal law.*

35 *1748.90. This title shall remain in effect only until January 1,*
36 *2020, and as of that date is repealed, unless a later enacted statute,*
37 *that is enacted before January 1, 2020, deletes or extends that*
38 *date.*

39 ~~1748.80. This title shall become operative on October 1, 2015.~~

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